REMARKS/ARGUMENTS

The Final Office Action mailed June 15, 2006 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Claim Status and Amendment to the Claims

Claims 1-28 are pending. No claims stand allowed.

The 35 U.S.C. §103 Rejection

Claims 1-28 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Rossmann (U.S. Pat. No. 6,430,409) in view of Fasulo, II et al. (U.S. Pat. No. 5,742,639), among which claims 1, 9, 16, and 27 are independent claims.

This rejection is respectfully traversed.

According to M.P.E.P. §2143,

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.

Furthermore, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

Claim 1 defines l a system comprising (a) a computer operably connected to a network, the computer having software configured to track the status of multiple modem units, the software allowing for the production of status check requests to be sent to the multiple modem units, and (b) modem units for potable devices, configured to receive external status check requests from the computer, each of the modem units being associated with a host processor of the respective portable device, the modem unit being configured to reply with modem status information in response to the external status check request without being controlled by the host processor in the portable device, as recited in claim 1 (emphasis added).

In the Final Office Action, the Examiner contends that the elements of the presently claimed invention are disclosed in Rossmann except that "Rossmann does not explicitly discloses each of the modem units being associated with host processors of the respective portable device and configured to reply with modem status information in response to the external status check request without being controlled by the host processor in the portable device" (Final Office Action, page 3). The Examiner further contends that Fasulo teaches each of the modem units being associated with host processors of the respective portable device (citing blocks **38, 40, 52, 54, 56** and **50** in FIG.1 of Fasulo), and configured to reply with modem status information in response to the external status check request without being controlled by the host processor in the portable device (citing blocks **64, 66, 39, 70,** and **68** in FIG. 2C of Fasulo). The Examiner alleges that it would be obvious to one having ordinary skill in the art at the time of the invention to incorporate Fasulo into Rossmann in order to "reliably receive

the attenuated signals in a two-way data communication device consisting cellular telephone, pager, telephone, fax and computer system to communicate with a server computer." The Applicants respectfully disagree for the reasons set forth below.

As the Examiner correctly noted, Rossmann fails to disclose or suggest a modem unit which is associated with a host processor of a portable unit and configured to reply with modem status information in response to the external status check request without being controlled by the host processor in the portable device, as recited in claim 1.

With respect to Fasulo, the Examiner specifically equates Fasulo's modem (digital signal processor: DSP) **38** with the claimed modem unit, Fasulo's signaling with the claimed status information, and Fasulo's packet switch (PS) mode with the claimed responding to the external status check request (Final Office Action, page 3, lines 13-22).

However, in Fasulo, "the PS mode and the signaling mode are mutually exclusive" (column 10, lines 16-17 thereof). That is, the signaling (the alleged status information) and the packet switching (the alleged response) cannot be operating in the same mode in Fasulo. Thus, Fasulo teaches the alleged status information away from being in response to the packet switch (the alleged request). In addition, Fasulo does not suggest such "packet switch" is a specific status check request as recited in claim 1.

Furthermore, in Fasulo's signaling protocol (column 15, line 59 through column 20, line 16), as clearly illustrated in FIGS. 4A through 4D and 5A through 5C, all of the tasks (rectangular boxes) and entered information (parallelogram shaped blocks) are

triggered by "POWER ON" (see FIG. 4A upper left). Thus, all of the processes in signaling protocol, including "Modem Perf Status Queue Entry" (See FIG. 4A), or the alleged modem status information, are in response to a power-on, not in response to any external request.

Accordingly, Fasulo fails to teach or suggest a modem unit configured to reply with modem status information in response to the external status check request without being controlled by the host processor in the portable device, as recited in claim 1.

Therefore, Rossmann, whether considered alone or combined with or modified by Fasulo, does not teach a modem unit which is associated with a host processor of a portable unit and configured to reply with modem status information in response to the external status check request without being controlled by the host processor in the portable device, as recited in claim 1.

Claims 9, 16, and 27 also include substantially the same distinctive features as claim 1.

Accordingly, it is respectfully requested that the rejection of claims based on Rossmann and Fasulo be withdrawn. In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Dependent Claims

Claims 2-8, 22, and 25-26 depend from claim 1, claims 10-15 and 23 depend from claim 9, claims 17-21 and 24 depend from claim 16, and claim 28 depends from claim 27, and thus include the limitations of the respective independent claims. The argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable at least for the same reasons.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-1698.

Respectfully submitted,
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